

Application No. 10/001,363  
Amendment dated September 11, 2006  
Reply to Office Action of April 12, 2006

**REMARKS/ARGUMENTS**

Responsive to the Official Action mailed April 12, 2006, applicants have further revised the claims of their application in an earnest effort to place this case in condition for allowance. Specifically, claims 1-6 have been cancelled, claim 7 amended, and new claim 11 added. Reconsideration is respectfully requested.

In the Action, the Examiner rejected the pending claims under 35 U.S.C. §102, with reliance upon U.S. Patent No. 6,410,823, to Daley et al., and U.S. Patent No. 5,969,026, to More et al. However, as set forth in the pending claims, it is respectfully submitted that applicants' polymeric film composition is clearly patentably distinct from these references, and accordingly, the Examiner's rejections are respectfully traversed.

In this regard, it is respectfully submitted that claim 7, as amended, specifies applicants' invention in a manner commensurate in scope with the application disclosure, including the drawings, with emphasis upon the unexpected results achieved by practice of the present invention. In particular, the criticality of the film of the present invention, as having been made with the wetting agent consisting essentially of the recited ingredients in their respective amounts, is disclosed in the application, including disclosure at page 6, line 20, to page 7, line 4, inclusive of the Data Table on page 7.

In particular, as shown in the Table on pg. 7 of the present specification, in wetting agent formulations containing significant titanium dioxide content (viz., 40%) and LDPE carrier resin, the use of lower surfactant level (e.g., 10% and 12.5%) yielded significant hole reduction (7.2% and 12.2%, respectively, "Waste From Holes") versus the comparison formulations containing 15.3% surfactant (16.4% and 35.2% "Waste From Holes").

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Applicants submit that these comparative test results provided in the present application are sufficient to rebut any asserted *prima facie* case of obviousness being made against the present pending claim based on any of the relied upon prior art references.

Applicants respectfully point out the Daley et al. reference (US Patent No. 6,410,823), which was applied against claims 1, 2, 4 and 7 under 35 U.S.C. §102(e) in the Final Office Action, fails to teach or suggest titanium dioxide ingredients at any level in the specific formulation referenced in the Final Office Action (Example 1, col. 6, lines 32-35), nor in the remainder of the reference. The chemical composition in Daley et al. that is relied upon in the Final Office action is quite different from the presently claimed invention. The above-indicated unexpected and improved attributes of the presently claimed invention are quite surprising, and they would not have been predicted or expected from Daley et al.'s teachings.

Applicants point out the Mor et al. reference (U.S. Patent No. 5,969,026), which was applied against claims 6 and 7 under 35 U.S.C. §102(b) in the Final Office Action, nowhere exemplifies or specifically teaches, as a single combination, a film made with a wetting agent as claimed consisting essentially of about 10% and 13% wetting compound, from about 38% to 44% titanium dioxide ( $TiO_2$ ), and the balance being a polymeric carrier resin that is a low density polyethylene (e.g., see Formulations #1-#6).

In fact, the working examples of Formulations #1-#6 of Mor et al. relate to fiber or nonwoven products, not films. "Films" are mentioned in passing at col. 15, line 17 of Mor et al., but not exemplified, nor in an enabling manner.

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Any picking, choosing and ignoring relied upon in an attempt to reconstruct a claimed invention from amongst disparate teachings of the prior art, even if separately found within a single reference, can not support a rejection based on anticipation.

Referring to Formulations #1 and #6 of Mor et al., it is respectfully pointed out that the amount of solid wetting agent is described as 30% or 25% (90% GMS content), and the described "polypropylene" ingredient is not a low density polyethylene, nor is the optional "other additive or pigment or filler [that] can be used in the formulation" specified or illustrated. Mor et al. generally mention a large number of such optional additives that might or might not be selected, without preference or direction to using titanium dioxide in a specific illustration, nor by amount (see col. 10, lines 56-67).

In view of at least the above, Mor et al. does not anticipate claim 7. Also, as noted above, Applicants have provided comparative data in the present specification sufficient to rebut any asserted *prima facie* case of obviousness being made against the present pending claim based on any of the relied upon prior art references, such as Mor et al.

Applicants also respectfully point out the Thomson reference (U.S. Patent No. 4,490,323), which was applied against claim 7 under 35 U.S.C. §102(b) in the Final Office Action, fails to teach or suggest titanium dioxide ingredients at any level (see Examples I-III). The chemical composition in Thomson is quite different from the presently claimed invention. The above-indicated unexpected and improved attributes of the presently claimed invention are quite surprising, and they would not have been predicted or expected from Thomson's teachings.

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Applicants also point out the Jones et al. reference (US 3,668,172), which was applied against claims 1-7 under 35 U.S.C. §103(a) in the Final Office Action, fails to teach or suggest a titanium dioxide ingredient in combination with about 10% and 13% wetting compound, and a balance of polymeric carrier resin that is a low density polyethylene.

The Findley reference (U.S. Patent No. 5,176,751) was only applied against claims 1-3 in the Final Office Action, as is not relevant to remaining claims 7 and 11 at issue.

In view of the foregoing, formal allowance of claims 7 and 11 is believed to be in order and is respectfully solicited. Should the Examiner wish to speak with applicants' attorneys, they may be reached at the number indicated below.

The Commissioner is hereby authorized to charge any additional fees which may be required in connection with this submission to Deposit Account No. 23-0785.

Respectfully submitted,

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